



Atty Dkt No. OPF 18.20

Patent

#3

COMBINED DECLARATION AND POWER OF ATTORNEY  
FOR UTILITY PATENT APPLICATION

AS A BELOW-NAMED INVENTOR, I HEREBY DECLARE THAT:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if more than one name is listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: HYDROGEL PARTICLE FORMULATION, the specification of which

       is attached hereto

X was filed on 3 August 2001 and assigned Serial No. 09/922,218.

I HAVE REVIEWED AND UNDERSTAND THE CONTENTS OF THE ABOVE-IDENTIFIED SPECIFICATION, INCLUDING THE CLAIMS, AS AMENDED BY ANY AMENDMENT REFERRED TO ABOVE.

I acknowledge and understand that I am an individual who has a duty to disclose information which is material to the patentability of the claims of this application in accordance with Title 37, Code of Federal Regulations, §§ 1.56(a) and (b) which state:

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
  - (i) Opposing an argument of unpatentability relied on by the Office, or
  - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

I do not know and do not believe this invention was ever known or used in the United States of America before my or our invention thereof, or patented or described in any printed publication in any country before my or our invention thereof or more than one year prior to said application. This invention was not in public use or on sale in the United States of America more than one year prior to this application. This invention has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on any application filed by me or my legal representatives or assigns more than six months prior to this application.

I hereby claim priority benefits under Title 35, United States Code § 119(e)(1) of any United States provisional application(s) for patent as indicated below and have also identified below any application for patent on this invention having a filing date before that of the application for patent on which priority is claimed:

<u>Application No.</u>	<u>Date of Filing</u> (day/month/year)	<u>Priority</u> <u>Claimed</u>
60/118,334	3 February 1999	Yes <u>X</u> No <u>  </u>

I hereby claim priority benefits under Title 35, United States Code § 120, as provided in 35 U.S.C. § 365(c) of any international application designating the United States also identified below having a filing date before that of the application for patent on which priority is claimed:

<u>Application No.</u>	<u>Date of Filing</u> (day/month/year)	<u>Priority</u> <u>Claimed</u>
PCT/GB00/00349	3 February 2000	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

I hereby appoint the following attorneys and agents to prosecute that application and to transact all business in the Patent and Trademark Office connected therewith and to file, to prosecute and to transact all business in connection with all patent applications directed to the invention:

Thomas P. McCracken, Reg. No. 38,548  
Roberta L. Robins, Reg. No. 33,208  
Dahna S. Pasternak, Reg. No. 41,411  
Gary R. Fabian, Ph.D., Reg. No. 33,875

Address all correspondence to: Thomas P. McCracken at

Powderject Technologies, Inc.  
6511 Dumbarton Circle  
Fremont, CA 94555

Address all telephone calls to: Thomas P. McCracken at (510) 742-9700 x209.

This appointment, including the right to delegate this appointment, shall also apply to the same extent to any proceedings established by the Patent Cooperation Treaty.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Signature: Barbara Horsey O'CONNOR

Full Name of Inventor: Barbara Horsey O'CONNOR

Citizenship: US

Residence: San Carlos, California

Post Office Address: 150 Dale Avenue, San Carlos, California 94070

Date 8/30/01

Signature: Terry Lee BURKOTH

Date 9/24/01

Full Name of Inventor: Terry Lee BURKOTH

Citizenship: US

Residence: Palo Alto, California

Post Office Address: 711 Torreya Court, Palo Alto, California 94303

Signature: Steven Joseph PRESTRELSKI

Date 8/30/01

Full Name of Inventor: Steven Joseph PRESTRELSKI

Citizenship: US

Residence: Mountain View, California

Post Office Address: 1971 W. Middlefield Road, #5, Mountain View, California 94043

Signature: Yuh-Fun MAA

Date Aug. 30, 2001

Full Name of Inventor: Yuh-Fun MAA

Citizenship: US

Residence: Millbrae, California

Post Office Address: 651 Sequoia Avenue, Millbrae, California 94030

Signature: Andrew MUDDLE

Date 20<sup>th</sup> Sept 01

Full Name of Inventor: Andrew MUDDLE

Citizenship: GB

Residence: Oxon, United Kingdom

Post Office Address: 41 Sinnels Field, Shipton-Under-Sychwood, Oxon OX7 6EJ, United Kingdom

Signature: Roderick HAFNER

Date 20<sup>th</sup> September 2001

Full Name of Inventor: Roderick HAFNER

Citizenship: GB

Residence: Basingstoke, United Kingdom

Post Office Address: Haye Cottage, 9 Cranes Road, Sherborne St. John, Basingstoke RG24 9HY,  
United Kingdom